

SPOTLIGHT ON WEIGHTS & MEASURES

SONOMA COUNTY SEALER OF WEIGHTS AND MEASURES



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COMPLAINTS

March was a busy month for consumer complaints. The complaints received fell into the following categories:

- Service Stations 6
- Utility Meters 5

An unusually high number of utility meter complaints from mobile home parks were received. All of the complaints from mobile home tenants were in regard to a suspicion that they were overcharged for their electricity use. Some of the tenants suspected bad meters while others suspected it was an error in how their services were being billed.

Upon reviewing all of the mobile home complaints, we confirm one obvious error in how a tenant was billed over a three-month period. The particular tenant pointed out the error to the park managers who did make an honest attempt to correct the problem. Somewhere in the process of determining the correct bill for the tenant, nerves were frayed and we as an independent third party stepped in to mediate a mutually agreeable solution for the two parties.

A second complaint came from a tenant at a local recreational vehicle (R.V.) park. The bill received for utilities had no "starting" and "closing" meter readings. The park manager believed the business was exempt from utility sub-metering requirements because the park was considered a R.V. park by PG&E. This distinction does not apply in the case of sub-metering for utilities. The R.V. park

management was informed of their obligation under California's sub-metering regulations, which is to provide the "open" and "close" readings to their customer's for all of their sub-metered utilities.

Two complaints received were from individuals who believed the fuel they purchased at a local service station was contaminated with water. An inspector from our office sampled the fuel and sent the sample to a "petroleum" lab in Sacramento in order to determine if there was any contamination in the fuel. The sample results were positive indicating, "fuel contamination".

Meanwhile the service station received an additional delivery; as a result the inspector took a second sample and immediately sent it to the lab in Sacramento for a second confirmation. The second sample's results also tested positive for contamination and the service station's "Diesel" fuel was immediately put "off sale" for failure to meet the required fuel specifications. Consequently the service station was required to pump out and remove all of the contaminated fuel. The business reordered a new delivery, which was subsequently sampled and tested before it could go on sale. The lab results came back clean and indicated that all diesel fuel specifications were met and the fuel was allowed to go on sale to the general public. The situation is currently being mitigated in order to determine who was at fault and to what degree.

CONSUMER TIPS

Here are some excerpts from California's Department of Consumer Affairs website (<http://www.dca.ca.gov/index.html>). They offer some examples about what businesses are required to do when they do business in the State of California.

- **False and misleading advertisements** – An advertisement that is false or misleading is prohibited in California. An advertisement that fails to disclose information or that is ambiguous or is partially, or even literally, true may be found unlawful if the public is likely to be deceived by it.
(B&P Code §17500)
- **Bait and switch** – The law prohibits merchants from advertising goods or services with the intent not to sell them as advertised, but to switch the customer to another item, usually at a higher price or on terms more advantageous to the seller. Bait and switch tactics take many forms. Examples include using a picture that misrepresents the advertised item, disparaging the advertised item, or showing an item that is not suited for the purposes represented in the ad.
(CC § 1770(a)(9))
- **Supply of advertised item** – Each of the advertiser's stores in the area where an ad is run must have enough of the advertised item available at or below advertised prices to meet a reasonably expected demand. An exception is when the ad states a limit on the quantity of a certain item or a limit on the stores at which the item is available.
(CC § 1770(a)(10))
- **Disclosure of price** – If a store advertises a price for a consumer good or service that is sold only in groups of two or more, the ad must indicate the minimum number of items the customer must buy to receive them at the advertised price. For example, an ad cannot say "batteries - \$.10 each," if the batteries are sold only in packages of 10. However, the ad could say "batteries - \$.10 each, sold only in packages of 10 for \$1.00 per package."
(B&P Code § 17504)
- **Disclosure of other items that must also be purchased** - If an advertisement for one product or service requires, as a condition of sale or lease, the purchase or lease of a different product or service, the ad must disclose the price of all of the products or services that must be purchased or leased.
(B&P Code §17509)
- **Rain checks** - Merchants are not required to give rain checks, although some stores do have a policy of providing them. However, giving the consumer a rain check will not ordinarily excuse an advertiser's failure to have enough of an item available to meet reasonably expected demand, as explained above.
(CC §1770(a)(10))
- **Unassembled children's toys** - If a children's toy is sold unassembled, the outside of the package must clearly state that the product is unassembled. If the toy is packaged outside of California, the wholesaler or other person who first controls the toy in California must mark the outside of the package to indicate that the toy is unassembled
(B&P Code §17531.1)
- **Advertisement of used, defective, or irregular items** - If an advertised item is used, defective, or irregular, this information must be conspicuously disclosed in the ad.
(B&P Code §17531)
- **Literally true but misleading ads** - An ad that is literally true but misleading is unlawful. For example, if an advertisement says that an item is "Available through Sunday at only \$5.99," and the article can be purchased from the advertiser after Sunday at \$5.99, the ad is misleading, even though it is literally true.
(B&P Code §17500).